

**REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action dated March 8, 2004. Claims 1-31 are pending. Claims 1-31 are rejected. Claims 1, 10, 16, 22, and 28-31 have been amended. Claims 5-7, 11-13, 17-19, and 23-25 have been canceled. Accordingly, claims 1-4, 8-10, 14-16, 20-22, and 26-31 remain pending in the present application.

Claims 1, 2, 5, 7-9, 10, 13-15, 28, and 31

Claims 1, 2, 7-9, 10, 13-15, 28, and 31 are rejected under 35 USC 102(b) as being anticipated by Sone (5,919,047). Claims 7 and 13 has been canceled, thus its rejection is moot. The Examiner provided a table to summarize the limitations of the claims and the parts of Sone that the Examiner states matches these limitations. Applicant has amended the independent claims 1, 10, 28, and 31 to incorporate the limitations recited in claim 5. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Sone in view of Zampini et al. (5,488,669), as applied to claim 1. Per claim 5, the Examiner states:

Sone does not disclose “storing the plurality of characteristics in at least one characteristics file associated with the first or the second digital audio file.”

Zampini teaches “storing” user-defined cross-fading settings (Col. 4, lines 53-56). This configuration is stored in non-volatile memory of the computer (Col. 5, line 1) and hence, inherently, can be in the form of computer files.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sone as taught by Zampini, in order to maintain a permanent record of user settings associated with audio file cross-fading. This would allow the user to import, export and re-use the same settings for multiple audio files, thus greatly enhancing the usability of the system.

Applicant respectfully disagrees. Zampini stores the user-defined cross-fading settings, i.e., the configurations of the audio follow mixer system. (Col. 4, lines 53-56). This is not analogous to storing the characteristics of the digital audio files according to the present invention.

Possible characteristics include the overall loudness level, the loudness trend, tempo, harmonic

content, presence/absence of a vocal, changes in tempo during a song, and the beat amplitude. (See specification at p. 5, lines 7-12.) According to the present invention, the characteristics in the same file can be used in any number of cross-fading settings or configurations. It is the characteristics of the digital audio file(s) themselves that are saved with the present invention, not the cross-fading settings or configurations.

Thus, Sone in view of Zampini does not teach or suggest associating the plurality of characteristics with the first and the second digital audio files and storing the plurality of characteristics in at least open characteristics file associated with the first or second digital audio file, in combination with the other elements as recited in amended independent claims 1, 10, 28, and 31.

Applicant submits that claims 2, 8-9, and 14-15 are allowable because they depend on the above allowable base claims.

Claims 3, 4, and 6

Claims 3, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone as applied to claim 1, and further in view of Lee (6,278,048). Claim 6 has been canceled, thus its rejection is moot. Per the remaining claims, claims 3 and 4 are dependent upon amended independent claim 1. Applicant submits that claims 3 and 4 are patentable when viewed in combination with their corresponding independent claim 1. Applicant's arguments concerning Sone as applied to claim 1 thus applies here with equal force. Even if Lee teaches the limitations as argued by the Examiner, Sone in view of Lee still does not teach or suggest associating the plurality of characteristics with the first and the second digital audio files and storing the plurality of characteristics in at least open characteristics file associated with the first or second digital audio file, in combination with the other steps as recited in amended independent claim 1 with claims 3 and 4.

Claims 11 and 12

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sone as applied to claim 10, and further in view of Zampini et al. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sone as applied to claim 10, and further in view of Lee. Claims 11 and 12 have been canceled. Their rejections are thus moot.

Claims 16, 18-21, and 29

Claims 16, 18-21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone in view of Lee. Claims 18-19 have been canceled, thus their rejection is moot. Applicant's arguments concerning Sone as applied to amended independent claim 1 applies here with equal force. For the sake of brevity, these arguments will not be repeated here. Thus, even if Lee teaches the limitations as argued by the Examiner, Sone in view of Lee still does not teach or suggest associating the plurality of characteristics with the first and the second digital audio files and storing the plurality of characteristics in at least open characteristics file associated with the first or second digital audio file, in combination with the other elements as recited in amended independent claims 16 and 29.

Applicant submits that claims 18-21 are allowable because they depend on the above allowable base claims.

Claim 17

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sone and Lee, as applied to claim 16, and further in view of Zampini et al. Claim 17 has been canceled, thus its rejection is moot.

Claims 22, 24-27, and 30

Claims 22, 24-27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sone in view of Lee. Claims 24-25 have been canceled, thus their rejection is moot. Applicant's

arguments concerning Sone as applied to amended independent claim 1 applies here with equal force. For the sake of brevity, these arguments will not be repeated here. Thus, even if Lee teaches the limitations as argued by the Examiner, Sone in view of Lee still does not teach or suggest associating the plurality of characteristics with the first and the second digital audio files and storing the plurality of characteristics in at least open characteristics file associated with the first or second digital audio file, in combination with the other elements as recited in amended independent claims 22 and 30.

Applicant submits that claims 26-27 are allowable because they depend on the above allowable base claims.

Claim 23

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sone and Lee, as applied to claim 22, further in view of Zampini et al. Claim 23 has been canceled, thus its rejection is moot.

Conclusion

Therefore, for the above identified reasons, the present invention as recited in independent claims 1, 10, 16, 22, and 28-31 is neither taught nor suggested by the cited references. Applicant further submits that claims 2-4, 8-9, 14-15, and 20-21 are also allowable because they depend on the above allowable base claims.

In view of the foregoing, Applicant submits that claims 1-4, 8-10, 14-16, 20-22, and 26-31 are patentable over the cited references. Applicant, therefore, respectfully requests reconsideration and allowance of the claims as now presented.

The prior art made of record and not relied upon has been reviewed and does not appear to be any more relevant than the applied references.

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Applicants' attorney believes this application in condition for allowance. Should any

unresolved issues remain, Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted,  
SAWYER LAW GROUP LLP

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Date

  
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